

IMPROVING LANGUAGE ACCESS IN MORTGAGE
SERVICING ACT OF 2021

JUNE 15, 2022.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Ms. WATERS, from the Committee on Financial Services,
submitted the following

R E P O R T

[To accompany H.R. 3009]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 3009) to amend the Truth in Lending Act and the Real Estate Settlement Procedures Act of 1974 to establish language access requirements for creditors and servicers, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Improving Language Access in Mortgage Servicing Act of 2021”.

SEC. 2. LANGUAGE ACCESS REQUIREMENTS AND RESOURCES.

(a) **IN GENERAL.**—Chapter 2 of title I of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by inserting after section 129H the following:

“§ 129I. Language access requirements.

“(a) **STANDARD LANGUAGE PREFERENCE FORM.**—Not later than 90 days after the date of the enactment of this section, the Director of the Bureau of Consumer Financial Protection shall, after consulting with the Secretary of Agriculture, the Director of the Federal Housing Finance Agency, the Secretary of Veterans Affairs, and the Commissioner of the Federal Housing Authority, by rule, establish a standard language preference form which includes a standard language preference question asked in each of the 8 languages most commonly spoken by individuals with limited English proficiency, as determined by the Director of the Bureau using information published by the Director of the Bureau of the Census.

“(b) **REQUIREMENTS FOR CREDITORS.**—

“(1) **USE OF STANDARD LANGUAGE PREFERENCE FORM BY CREDITORS.**—

“(A) **INCLUSION IN APPLICATION.**—Each creditor shall include, in any written application used in connection with a residential mortgage loan, the standard language preference form established by the Director of the Bureau under subsection (a).

“(B) **INCLUSION OF DISCLOSURE.**—Each creditor may include with such standard language preference form a disclosure stating that documents and services may not be available in the preferred language indicated by the consumer on the standard language preference form.

“(C) **DOCUMENTATION AND TRANSFER OF PREFERRED LANGUAGE INFORMATION.**—If a creditor, or assignee of a creditor receives information about a language preference of a consumer through the standard language preference form, orally or in writing in connection with a residential mortgage loan, as determined by the Director of the Bureau, including from another creditor or a servicer, such creditor or assignee shall document this language preference in each file or electronic file of information associated with such consumer and shall transfer such information and the standard language preference form to any servicer of the loan and to any creditor that may own the loan in the future.

“(2) **PROVISION OF TRANSLATED DOCUMENTS.**—If a Federal agency or a State or local agency in the State or locality in which the residential property is located has produced a translation of a document used in association with a residential mortgage loan in the preferred language of a consumer documented by a creditor pursuant to paragraph (1)(C), such creditor shall—

“(A) provide such translation in addition to any English version of such document that would have been provided to such consumer who indicated such preferred language; and

“(B) include a notice on the English and translated versions indicating that the English version is the official and operative document and the translated version is for informational purposes only.

“(3) **ORAL INTERPRETATION SERVICES.**—

“(A) **IN GENERAL.**—If a creditor receives information about a language preference of a consumer through the standard language preference form, orally or in writing in connection with a residential mortgage loan, as determined by the Director of the Bureau, including from another creditor or a servicer, such creditor shall provide oral interpretation services to such consumer.

“(B) **ORAL INTERPRETATION SERVICES.**—If a creditor is required under subparagraph (A) to provide oral interpretation services to a consumer, such creditor shall ensure qualified oral interpretation services, as defined by the Director of the Bureau, are made available in the preferred language of the consumer for all oral communications between the such creditor and the consumer and these oral interpretation services may be provided by qualified staff of the creditor or a qualified third party.

“(4) **NOTICE OF AVAILABLE LANGUAGE SERVICES.**—If a creditor receives information about a language preference of a consumer through the standard language preference form, orally or in writing in connection with a residential mortgage loan, as determined by the Director of the Bureau, including from another creditor or a servicer, such creditor shall not later than 10 business days after receiving such information, notify such consumer in writing, in the pre-

ferred language of the consumer, of any language services available, including the services required under paragraphs (2) and (3).

“(5) TRANSFER OF LANGUAGE PREFERENCE INFORMATION.—If a creditor transfers the servicing associated with a residential mortgage loan, such creditor shall notify the transferee servicer of any known language preference of the consumer associated with such residential mortgage loan.

“(6) INFORMATION ON WEBSITE.—Each creditor shall on the website of the creditor publish—

“(A) links to and explanatory information about the websites maintained by the Secretary of Housing and Urban Development and the Director of the Bureau of Consumer Financial Protection that identify housing counselors approved by the Department of Housing and Urban Development; and

“(B) a link to and explanatory information about the language resources website established by the Director of the Bureau of Consumer Financial Protection, the Secretary of Housing and Urban Development, the Director of the Federal Housing Finance Agency, the Secretary of Agriculture, and the Secretary of Veterans Affairs under section 1(e) of the Improving Language Access in Mortgage Servicing Act of 2021.

“(c) TRANSLATION OF MORTGAGE DOCUMENTS.—With respect to each document published by the Federal Housing Finance Agency, the Bureau of Consumer Financial Protection, the Department of Housing and Urban Development, the Department of Veterans Affairs, and the Department of Agriculture and used in association with a residential mortgage loan transaction, including origination and servicing documents, the Director of the Bureau of Consumer Financial Protection and the Director of the Federal Housing Finance Agency shall jointly—

“(1) not later than 180 days after the date of the enactment of this section, publish versions of such documents translated into each of the 8 languages most commonly spoken by individuals with limited English proficiency, as determined by the Director of the Bureau of Consumer Financial Protection using information published by the Director of the Bureau of the Census; and

“(2) not later than 3 years after the date of the enactment of this section, publish versions of such documents translated into at least 4 additional languages spoken by individuals with limited English proficiency that are regionally prevalent in the United States, as determined by the Director of the Bureau of Consumer Financial Protection using information published by the Director of the Bureau of the Census.

“(d) RULEMAKING.—The Director may issue such rules as the Director determines necessary to implement this section.”

(b) REQUIREMENTS FOR SERVICERS.—Section 6 of the Real Estate Settlement Procedures Act of 1974 is amended by adding at the end the following:

“(n) LANGUAGE ACCESS REQUIREMENTS.—

“(1) IN GENERAL.—

“(A) INCLUSION IN NOTICES.—Each servicer shall include the standard language preference form with—

“(i) any notice required under section 1024.39(b) of title 12, Code of Federal Regulations;

“(ii) any notice required under section (c);

“(iii) any notice required under section 1024.41(b)(2) of title 12, Code of Federal Regulations;

“(iv) any notice required under section 1024.41(c)(2)(iii) of title 12, Code of Federal Regulations; and

“(v) any other additional notice as the Director of the Bureau of Consumer Financial Protection determines necessary.

“(B) INCLUSION OF DISCLOSURES.—A servicer may include with the standard language preference form a disclosure stating that documents and services may not be available in the preferred language of the borrower indicated by the consumer on the standard language preference form.

“(C) DOCUMENTATION AND TRANSFER OF PREFERRED LANGUAGE INFORMATION.—If a servicer or an assignee of a servicer receives information about a language preference of a borrower through the standard language preference form, orally or in writing in connection with a federally related mortgage, as determined by the Director of the Bureau, including from another servicer or creditor, such servicer or assignee shall document this language preference in each file or electronic file of information associated with such borrower and shall transfer such information and the standard language preference form to any other servicer that may service the loan in the future.

“(2) REQUIRED LANGUAGE SERVICES FOR SERVICERS.—

“(A) PROVISION OF TRANSLATED DOCUMENTS.—If a Federal agency, or a State or local agency in the State or locality in which the property subject to the federally related mortgage loan is to be located has produced a translation of a document used in association with a federally related mortgage loan in the preferred language of a borrower as documented by the servicer pursuant to paragraph (1)(C), the servicer shall—

“(i) provide such translation in addition to any English version of such document that would have been provided to such borrower; and

“(ii) include a notice on the English and translated versions, in the preferred language of the borrower, indicating that the English version is the official and operative document and the translated version is for informational purposes only.

“(B) ORAL INTERPRETATION SERVICES.—

“(i) IN GENERAL.—If a servicer receives information about a language preference of a borrower through the standard language preference form, orally or in writing in connection with a federally related mortgage, as determined by the Director of the Bureau, including from another creditor or a servicer, such servicer shall provide oral interpretation services to such borrower.

“(ii) ORAL INTERPRETATION SERVICES.—If a servicer is required under subparagraph (A) to provide oral interpretation services to a borrower, such servicer shall ensure qualified oral interpretation services, as defined by the Director of the Bureau, are made available in the preferred language of the borrower for all oral communications between the such servicer and the borrower and these oral interpretation services may be provided by qualified staff of the borrower or a qualified third party.

“(3) NOTICE OF AVAILABLE LANGUAGE SERVICES.—If a servicer receives information about a language preference of a borrower through the standard language preference form, orally or in writing in connection with a federally related mortgage, as determined by the Director of the Bureau, including from another creditor or a servicer, such servicer shall, not later than 10 business days after receiving such information, notify such borrower in writing, in the preferred language of the borrower, of any language services available, including the services required under paragraph (2).

“(4) TRANSFER OF LANGUAGE PREFERENCE INFORMATION.—If a servicer transfers the servicing associated with a federally related mortgage loan, such servicer shall notify the transferee servicer of any known language preference of the borrower associated with such federally related mortgage loan.

“(5) STANDARD LANGUAGE PREFERENCE FORM DEFINED.—The term ‘standard language preference form’ means the standard language preference form established by the Director of the Bureau under section 129I of the Truth in Lending Act.

“(6) INFORMATION ON WEBSITE.—Each servicer shall on the website of the servicer publish—

“(A) links to and information about the websites maintained by the Secretary of Housing and Urban Development and the Director of the Bureau of Consumer Financial Protection that identify housing counselors approved by the Department of Housing and Urban Development; and

“(B) a link to and information about the language resources website established by the Director of the Bureau of Consumer Financial Protection, the Secretary of Housing and Urban Development, the Director of the Federal Housing Finance Agency, the Secretary of Agriculture, and the Secretary of Veterans Affairs under section 1(e) of the Improving Language Access in Mortgage Servicing Act of 2021.

“(7) RULEMAKING.—The Director of the Bureau of Consumer Financial Protection may issue such rules as the Director determines necessary to implement this section.”.

(c) CLERICAL AMENDMENT.—The table of sections in chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq) is amended by inserting after the item relating to section 129H the following:

“129I. Language Access Requirements.”.

(d) REPORT.—Not later than 1 year after the date of the enactment of this section, and each year thereafter, the Director of the Bureau of Consumer Financial Protection, the Secretary of Housing and Urban Development, the Director of the Federal Housing Finance Agency, the Secretary of Agriculture, and the Secretary of Veterans Affairs shall submit a report to the Congress that contains—

(1) regulatory recommendations to enhance mortgage origination and servicing processes for persons with a preferred language that is not English;

- (2) a description of any legislative changes needed to provide authority necessary to implement the regulatory recommendations; and
- (3) a description of any progress on the implementation of any legislative or regulatory recommendation made in a previous report.

(e) LANGUAGE RESOURCE WEBSITE.—

(1) IN GENERAL.—The Director of the Bureau of Consumer Financial Protection, the Secretary of Housing and Urban Development, the Director of the Federal Housing Finance Agency, the Secretary of Agriculture, and the Secretary of Veterans Affairs shall jointly not later than 1 year after the date of the enactment of this section establish and maintain a website that provides language resources for creditors, servicers, and consumers.

(2) WEBSITE REQUIREMENTS.—The website developed pursuant to paragraph

(1) shall include—

(A) the translations of documents published pursuant to section 129I(c) of the Truth in Lending Act;

(B) a glossary of terms relating to residential mortgage loans and federally related mortgage loans, provided in each commonly spoken language;

(C) guidance for creditors and servicers working with persons who have a preferred language that is not English; and

(D) examples of notices that may be used by creditors and servicers to inform persons of available language services, provided in accordance with section 6(n)(2) of the Real Estate Settlement Procedures Act of 1974 and section 129I of the Truth in Lending Act.

(f) ADVISORY GROUP.—

(1) IN GENERAL.—The Director of the Bureau of Consumer Financial Protection shall establish an advisory group consisting of stakeholders, including industry groups, consumer groups, civil rights groups, and groups that have experience improving language access in housing finance transactions, to provide advice to the Director about—

(A) issues that arise relating to mortgage origination and servicing processes for persons with a preferred language that is not English; and

(B) the development of the standard language preference form by the Director under section 129I(a) of the Truth in Lending Act;

(C) updates to the language resource website established by the Director of the Bureau of Consumer Financial Protection, the Secretary of Housing and Urban Development, the Director of the Federal Housing Finance Agency, the Secretary of Agriculture, and the Secretary of Veterans Affairs under subsection (e).

(2) REQUIRED CONSULTING.—The Director of the Bureau of Consumer Financial Protection shall consult with the advisory group established pursuant to paragraph (1) with respect to any issues that arise relating to mortgage origination and servicing processes for persons with a preferred language that is not English.

(g) HOUSING COUNSELING AGENCY LANGUAGE RESOURCES.—

(1) ENHANCED SEARCH CAPABILITIES.—

(A) HUD.—The Secretary of Housing and Urban Development shall not later than 1 year after the date of the enactment of this section update the website maintained by the Secretary that identifies housing counselors approved by the Department of Housing and Urban Development, to allow for searching for housing counseling agencies based on the language services they provide.

(B) BUREAU.—The Director of the Bureau of Consumer Financial protection shall not later than 1 year after the date of the enactment of this section update the website maintained by the Director that identifies housing counselors approved by the Department of Housing and Urban Development, to allow for searching for housing counseling agencies based on the language services they provide.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of the Department of Housing and Urban Development, such sums as are necessary to support language training for HUD-approved housing counselors, counseling agencies, and their staff.

(h) DEFINITIONS.—In this section—

(1) The term “creditor” has the meaning given the term in section 103 of the Truth in Lending Act and shall include any assignee of a creditor.

(2) The term “director” means the Director of the Bureau of Consumer Financial Protection.

(3) The term “servicer” has the meaning given the term in section 6(i) of the Real Estate Settlement Procedures Act of 1974.

(4) The term “residential mortgage loan” has the meaning given the term in section 103 of the Truth in Lending Act.

(5) The term “federally related mortgage loan” has the meaning given the term in section 3 of the Real Estate Settlement Procedures Act of 1974.

PURPOSE AND SUMMARY

On May 7, 2021, Representative Garcia introduced H.R. 3009, the “Improving Language Access in Mortgage Servicing Act of 2021”, which would amend the Truth in Lending Act (TILA) and the Real Estate Settlement Procedures Act of 1974 (RESPA) to establish language access requirements for creditors and servicers to better serve borrowers with limited English proficiency. Under the bill, the Consumer Financial Protection Bureau (CFPB) would be required to create a standard language preference form to be used by creditors and servicers to track language preferences and transfer such information with the loan. The CFPB and Federal Housing Finance Agency (FHFA) would also be required to work jointly to translate federal documents used in association with residential mortgage loan transactions from English into the eight languages most commonly spoken by individuals in the U.S. The bill would also require relevant federal agencies to establish and maintain a language resources website for mortgage originators and servicers, as well as to improve existing websites that include information for consumers about language services provided by housing counseling agencies.

BACKGROUND AND NEED FOR LEGISLATION

According to the latest data from the U.S. Census Bureau, over 20 percent of U.S. households speak a language other than English, there are over 380 languages spoken in the U.S., and nearly 9 percent of households speak English “less than very well.” Other than English, the top 8 languages spoken by households between 2016 and 2018 were: Spanish, Chinese, Vietnamese, Korean, Russian, Arabic, Tagalog, and Polish. While the financial services industry is largely centered on serving English-speaking consumers, ensuring language access in housing finance will help households with limited English proficiency (LEP), such as among immigrant communities, have equal access to mortgage lending products and services, and receive adequate documentation and servicing in their preferred language.

During the Great Recession, many LEP homeowners lost their homes to scams and foreclosure due to information gaps created by a lack of adequate servicing and documentation translated in their preferred language. During the current COVID-19 pandemic and economic downturn, millions of homeowners are in forbearance or behind on their mortgage payments, with the threat of foreclosure once forbearance periods expire. As of April 2020, 24.7 million people in the U.S. were unemployed, with immigrants and Latinas experiencing some of the sharpest decreases in employment in the U.S. This bill will ensure that servicers and creditors covered under TILA and RESPA provide LEP borrowers with translated documents, interpretation services, and notice of other resources available in borrowers’ preferred languages. These changes will ensure equal treatment and fair lending access, especially as the industry prepares to move homeowners through critical loss mitiga-

tion processes to avoid unnecessary foreclosures in the wake of COVID-19.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section establishes the short title of the bill as “Improving Language Access in Mortgage Servicing Act of 2021.”

Section 2. Language access requirements and resources

- This section amends the Truth in Lending Act (TILA) and the Real Estate Settlement Procedures Act of 1974 (RESPA) to require the CFPB (through rulemaking authority), in consultation with the Federal Housing Administration (FHA), the Department of Agriculture (USDA), and the Federal Housing Finance Agency (FHFA), to establish language access requirements for creditors and servicers to better serve borrowers with limited English proficiency, including by:
 - Establishing a standard language preference form that is to be translated into the top eight most commonly spoken languages by individuals with limited English proficiency, as determined by the U.S. Census Bureau.
 - Requiring creditors and servicers to share the standard language preference form with borrowers to track language preferences and transfer such information with the loan, disclose when language services are not available, and provide oral translations to ensure borrowers receive information and services in their preferred language.
 - Requiring creditors and servicers to publish links and explanatory information regarding HUD-approved housing counseling and federal language resources.
- The CFPB and FHFA would also be required to work jointly to translate federal documents used in association with residential mortgage loan transactions from English into the eight languages most commonly spoken by individuals in the U.S. within 180 days of enactment and into at least an additional 4 regionally prevalent languages not later than 3 years after enactment.
- The CFPB, Department of Housing and Urban Development (HUD), FHFA, USDA, and Department of Veterans Affairs (VA) would be required to submit a report to Congress within one year of enactment and annually thereafter. The report would include recommended regulations to enhance mortgage origination and servicing processes for LEP borrowers, as well as a description of any necessary legislative changes and of progress toward implementation of prior recommendations.
- The CFPB, HUD, FHFA, USDA, and VA would be required to set up a website to provide language resources for creditors, servicers, and consumers, including translated mortgage documents, a glossary of relevant terms, guidance for creditors and servicers, and translated sample notices of language services.
- The CFPB would be required to establish a stakeholder advisory group to advise the Bureau on language access in housing finance transactions.

- The CFPB and HUD would be required to enhance their websites to allow for searching housing counseling agencies by what language services they provide. This section also authorizes appropriations for language training of HUD-approved housing counselors, counseling agencies, and staff.

HEARINGS

For the purposes of section 3(c)(6) of House rule XIII, the Committee on Financial Services' full Committee held a hearing to consider H.R. 3009 entitled, "Justice for All: Achieving Racial Equity through Fair Access to Housing and Financial Services" on March 10, 2021.

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on May 12, 2021 and ordered H.R. 3009 to be reported favorably to the House with an amendment in the nature of a substitute by a vote of 29 yeas and 24 nays, a quorum being present.

COMMITTEE VOTES AND ROLL CALL VOTES

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that the following roll call votes occurred during the Committee's consideration of H.R. 2543: An amendment offered by Mr. Loudermilk, no. 6a, was NOT AGREED TO by a recorded vote of 25 yeas and 28 nays. Ordered reported to the House, as amended, with a favorable recommendation by a recorded vote of 29 yeas and 24 nays.

3b

| Present | Representatives | Ayes | Nays |
|---------|------------------------------------|------|------|
| | Ms. Waters, <i>Chairwoman</i> | | / |
| | Mrs. Maloney | | / |
| | Ms. Velázquez | | / |
| | Mr. Sherman | | / |
| | Mr. Meeks | | / |
| | Mr. Scott | | / |
| | Mr. Green | | / |
| | Mr. Cleaver | | / |
| | Mr. Perlmutter | | / |
| | Mr. Himes | | / |
| | Mr. Foster | | / |
| | Mrs. Beatty | | / |
| | Mr. Vargas | | / |
| | Mr. Gottheimer | / | |
| | Mr. Gonzalez (TX) | | / |
| | Mr. Lawson | | / |
| | Mr. San Nicolas | | / |
| | Ms. Axne | | / |
| | Mr. Casten | | / |
| | Ms. Pressley | | / |
| | Mr. Torres | | / |
| | Mr. Lynch | | / |
| | Ms. Adams | | / |
| | Ms. Tlaib | | / |
| | Ms. Dean | | / |
| | Ms. Ocasio-Cortez | | / |
| | Mr. Garza (IL) | | / |
| | Ms. Garcia (TX) | | / |
| | Ms. Williams (GA) | | / |
| | Mr. Auchincloss | | / |
| 30 | | | |
| | Mr. McHenry, <i>Ranking Member</i> | / | |
| | Mrs. Wagner | / | |
| | Mr. Lucas | / | |
| | Mr. Posey | / | |
| | Mr. Luetkeneyer | / | |
| | Mr. Huelskamp | / | |
| | Mr. Stivers | / | |
| | Mr. Barr | / | |
| | Mr. Williams (TX) | / | |
| | Mr. Hill | / | |
| | Mr. Emmer | / | |
| | Mr. Zeldin | / | |
| | Mr. Loudermilk | / | |
| | Mr. Mooney | / | |
| | Mr. Davidson | / | |
| | Mr. Budd | / | |
| | Mr. Kustoff | / | |
| | Mr. Hollingsworth | / | |
| | Mr. Gonzalez (OH) | / | |
| | Mr. Rose | / | |
| | Mr. Steil | / | |
| | Mr. Gooden | / | |
| | Mr. Timmons | / | |
| | Mr. Taylor | / | |
| 24 | | | |
| 54 | | | |

Committee on Financial Services
Full Committee
117th Congress (1st Session)

Date: 5/12/2021

Measure: H.R. 3009

Amendment No. 3b

Offered by: Mr. Loudermilk

24

| Agreed To | Yes | No | Present | Wden |
|------------|------|----|---------|------|
| | | | | |
| Voice Vote | Ayes | | Nays | |
| | | | | |

| Record Vote | FC |
|-------------|-------|
| / | 25-28 |

25

3

| Present | Representatives | Ayes | Nays |
|---------|------------------------------------|------|------|
| | Ms. Waters, <i>Chairwoman</i> | / | |
| | Mrs. Maloney | / | |
| | Ms. Velázquez | / | |
| | Mr. Shennan | / | |
| | Mr. Meeks | / | |
| | Mr. Scott | / | |
| | Mr. Green | / | |
| | Mr. Cleaver | / | |
| | Mr. Perlmutter | / | |
| | Mr. Himes | / | |
| | Mr. Foster | / | |
| | Mrs. Beatty | / | |
| | Mr. Vargas | / | |
| | Mr. Gottheimer | / | |
| | Mr. Gonzalez (TX) | / | |
| | Mr. Lawson | / | |
| | Mr. San Nicolas | / | |
| | Ms. Axne | / | |
| | Mr. Casten | / | |
| | Ms. Pressley | / | |
| | Mr. Torres | / | |
| | Mr. Lynch | / | |
| | Ms. Adams | / | |
| | Ms. Tlaib | / | |
| | Ms. Dean | / | |
| | Ms. Ocasio-Cortez | / | |
| | Mr. Garcia (IL) | / | |
| | Ms. Garcia (TX) | / | |
| | Ms. Williams (GA) | / | |
| | Mr. Auchincloss | / | |
| 30 | | | |
| | Mr. McHenry, <i>Ranking Member</i> | | / |
| | Mrs. Wagner | | / |
| | Mr. Lucas | | / |
| | Mr. Posey | | / |
| | Mr. Luetkemeyer | | / |
| | Mr. Huelskamp | | / |
| | Mr. Stivers | | / |
| | Mr. Barr | | / |
| | Mr. Williams (TX) | | / |
| | Mr. Hill | | / |
| | Mr. Emmer | | / |
| | Mr. Zeldin | | / |
| | Mr. Loudermilk | | / |
| | Mr. Mooney | | / |
| | Mr. Davidson | | / |
| | Mr. Budd | | / |
| | Mr. Kustoff | | / |
| | Mr. Hollingsworth | | / |
| | Mr. Gonzalez (OH) | | / |
| | Mr. Rose | | / |
| | Mr. Steel | | / |
| | Mr. Gooden | | / |
| | Mr. Timmons | | / |
| | Mr. Taylor | | / |
| 24 | | | |
| 54 | | | |

Committee on Financial Services
Full Committee
117th Congress (1st Session)

Date: 5/12/2021

Measure H.R. 3009

Amendment No. _____

Offered by: Ms. Garcia (TX)

29

| | | | | |
|------------|------|----|---------|-----|
| Agreed To | Yes | No | Present | Wdm |
| Voice Vote | Ayes | | Nays | |

24

| | |
|-------------|----|
| Record Vote | FC |
|-------------|----|

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF
THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause (3)(c) of rule XIII of the Rules of the House of Representatives, the goals of H.R. 3009 are to amend the Truth in Lending Act (TILA) and the Real Estate Settlement Procedures Act of 1974 (RESPA) to establish language access requirements for creditors and servicers to better serve borrowers with limited English proficiency.

NEW BUDGET AUTHORITY AND CBO COST ESTIMATE

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the *Congressional Budget Act of 1974*, and pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the *Congressional Budget Act of 1974*, the Committee has received the following estimate for H.R. 3009 from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 8, 2022.

Hon. MAXINE WATERS,
Chairwoman, Committee on Financial Services,
House of Representatives, Washington, DC.

DEAR MADAM CHAIRWOMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3009, the Improving Language Access in Mortgage Servicing Act of 2021.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is David Hughes.

Sincerely,

PHILLIP L. SWAGEL,
Director.

Enclosure.

| At a Glance | | | |
|--|---------------|-------------------------------------|-------------------------|
| H.R. 3009, Improving Language Access in Mortgage Servicing Act of 2021 | | | |
| As ordered reported by the House Committee on Financial Services on May 12, 2021 | | | |
| By Fiscal Year, Millions of Dollars | 2022 | 2022-2026 | 2022-2031 |
| Direct Spending (Outlays) | * | 7 | 13 |
| Revenues | 0 | 0 | 0 |
| Increase or Decrease (-) in the Deficit | * | 7 | 13 |
| Spending Subject to Appropriation (Outlays) | * | 2 | not estimated |
| Statutory pay-as-you-go procedures apply? | Yes | Mandate Effects | |
| Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2032? | < \$5 billion | Contains intergovernmental mandate? | No |
| | | Contains private-sector mandate? | Yes, Under Threshold |
| * = between zero and \$500,000 | | | |

The bill would

- Require the Consumer Financial Protection Agency (CFPB) to create a standardized form to track borrowers' language preferences in the mortgage process, translate federal mortgage documents into other languages, and update their website, among other responsibilities
- Impose private-sector mandates by requiring creditors and mortgage servicers to provide consumers with access to translators and other language-based resources

Estimated budgetary effects would mainly stem from

- Increases in direct spending by the CFPB to implement the bill's requirements
- Increases in spending subject to appropriation for the Department of Housing and Urban Development to provide language training.

Bill summary: H.R. 3009 would require the Consumer Financial Protection Bureau (CFPB) to undertake several projects and activities jointly with other federal agencies—the Federal Housing Finance Agency (FHFA) and the Departments of Housing and Urban Development (HUD), Agriculture, and Veterans Affairs—as follows:

- Issue rules to establish a form that mortgage loan creditors and servicers would use to document consumers' language preferences throughout the mortgage process,
- Translate federal documents related to residential mortgage loan transactions from English into 12 other languages,
- Report annually to the Congress on recommendations to improve the mortgage process for consumers with limited English proficiency,
- Establish and maintain a website to provide language resources for mortgage loan creditors, servicers, and consumers, and
- Update their websites to allow users to search for housing counseling agencies based on the language services they provide.

H.R. 3009 also would require the CFPB to establish a group to advise the bureau on providing foreign-language resources to mortgage consumers and would require HUD to provide language training for housing counselors, counseling agencies, and their staff.

Estimated Federal cost: The estimated budgetary effect of H.R. 3009 is shown in Table 1. The costs of the legislation fall within budget functions 370 (commerce and housing credit) and 600 (income security).

TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF H.R. 3009

| | By Fiscal Year, Millions of Dollars | | | | | | | | | | | |
|------------------------------|-------------------------------------|------|------|------|------|------|------|------|------|------|-----------|-----------|
| | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 | 2028 | 2029 | 2030 | 2031 | 2022–2026 | 2022–2031 |
| Increases in Direct Spending | | | | | | | | | | | | |
| Estimated Budget Authority | * | 3 | 2 | 1 | 1 | 1 | 1 | 1 | 1 | 2 | 7 | 13 |
| Estimated Outlays | * | 3 | 2 | 1 | 1 | 1 | 1 | 1 | 1 | 2 | 7 | 13 |

CFPB = Consumer Financial Protection Bureau; * = between zero and \$500,000.
Implementing the bill also would increase spending subject to appropriation by less than \$500,000 in each year and by \$2 million over the 2022–2026 period.

Basis of estimate: CBO assumes that H.R. 3009 would be enacted near the end of 2022. CBO estimates that enacting H.R. 3009 would increase direct spending by \$13 million over the 2022–2031 period and would increase spending subject to appropriation by \$2 million over the 2022–2026 period.

Direct spending: Because the CFPB has permanent authority, not subject to annual appropriation, to spend amounts transferred from the Federal Reserve, enacting the bill would increase direct spending. Using information from the CFPB, CBO estimates that spending would increase by \$13 million over the 2022–2031 period. That amount comprises \$2 million for four employees to issue new rules over two years; \$2 million to translate documents; \$6 million for information technology and staffing to establish, maintain, and update websites; and \$3 million to establish and support the advisory group.

CBO expects that any costs to FHFA under the bill would be insignificant because the agency could implement the bill's requirements with existing staff and resources.

Spending subject to appropriation: CBO estimates that implementing the bill would increase spending subject to appropriation by \$2 million over the 2022–2026 period, mostly for HUD to provide language training and update its website. The other departments would incur insignificant costs from consulting with the CFPB.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in Table 1.

Increase in long-term deficits: CBO estimates that enacting H.R. 3009 would not increase on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2032.

Mandates: H.R. 3009 would impose private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) by requiring creditors and mortgage servicers to provide consumers with access to translators and other language-based resources. CBO has

determined that the aggregate costs of the mandates would not exceed the thresholds established in UMRA for private-sector mandates (\$170 million in 2021, adjusted annually for inflation).

H.R. 3009 contains no intergovernmental mandates as defined in UMRA.

Estimate prepared by: Federal Costs: David Hughes (CFPB); Elizabeth Cove Delisle (HUD). Mandates: Fiona Forrester.

Estimate reviewed by: Justin Humphrey, Chief, Finance, Housing, and Education Cost Estimates Unit; Kathleen FitzGerald, Chief, Public and Private Mandates Unit; H. Samuel Papenfuss, Deputy Director of Budget Analysis; Theresa Gullo, Director of Budget Analysis.

COMMITTEE COST ESTIMATE

Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison of the costs that would be incurred in carrying out H.R. 3009. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the *Congressional Budget Act*.

UNFUNDED MANDATE STATEMENT

Pursuant to Section 423 of the *Congressional Budget and Impoundment Control Act* (as amended by Section 101(a)(2) of the *Unfunded Mandates Reform Act*, Pub. L. 104–4), the Committee adopts as its own the estimate of federal mandates regarding H.R. 3009, as amended, prepared by the Director of the Congressional Budget Office.

ADVISORY COMMITTEE

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Pursuant to section 102(b)(3) of the *Congressional Accountability Act*, Pub. L. No. 104–1, H.R. 3009, as amended, does not apply to terms and conditions of employment or to access to public services or accommodations within the legislative branch.

EARMARK STATEMENT

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 3009 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as described in clauses 9(e), 9(f), and 9(g) of rule XXI.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of H.R. 3009 establishes or reauthorizes a program of the Federal Government known to be duplicative of another federal program, a program that was included in any report from the Government Ac-

countability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance. .

CHANGES TO EXISTING LAW

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, H.R. 3009, as reported, are shown as follows:

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics and existing law in which no change is proposed is shown in roman):

TRUTH IN LENDING ACT

* * * * *

TITLE I—CONSUMER CREDIT COST DISCLOSURE

* * * * *

CHAPTER 2—CREDIT TRANSACTIONS

Sec.

* * * * *

129I. *Language access requirements.*

* * * * *

§ 129I. *Language access requirements.*

(a) *STANDARD LANGUAGE PREFERENCE FORM.*—Not later than 90 days after the date of the enactment of this section, the Director of the Bureau of Consumer Financial Protection shall, after consulting with the Secretary of Agriculture, the Director of the Federal Housing Finance Agency, the Secretary of Veterans Affairs, and the Commissioner of the Federal Housing Authority, by rule, establish a standard language preference form which includes a standard language preference question asked in each of the 8 languages most commonly spoken by individuals with limited English proficiency, as determined by the Director of the Bureau using information published by the Director of the Bureau of the Census.

(b) *REQUIREMENTS FOR CREDITORS.*—

(1) *USE OF STANDARD LANGUAGE PREFERENCE FORM BY CREDITORS.*—

(A) *INCLUSION IN APPLICATION.*—Each creditor shall include, in any written application used in connection with a residential mortgage loan, the standard language preference form established by the Director of the Bureau under subsection (a).

(B) *INCLUSION OF DISCLOSURE.*—Each creditor may include with such standard language preference form a dis-

closure stating that documents and services may not be available in the preferred language indicated by the consumer on the standard language preference form.

(C) DOCUMENTATION AND TRANSFER OF PREFERRED LANGUAGE INFORMATION.—If a creditor, or assignee of a creditor receives information about a language preference of a consumer through the standard language preference form, orally or in writing in connection with a residential mortgage loan, as determined by the Director of the Bureau, including from another creditor or a servicer, such creditor or assignee shall document this language preference in each file or electronic file of information associated with such consumer and shall transfer such information and the standard language preference form to any servicer of the loan and to any creditor that may own the loan in the future.

(2) PROVISION OF TRANSLATED DOCUMENTS.—If a Federal agency or a State or local agency in the State or locality in which the residential property is located has produced a translation of a document used in association with a residential mortgage loan in the preferred language of a consumer documented by a creditor pursuant to paragraph (1)(C), such creditor shall—

(A) provide such translation in addition to any English version of such document that would have been provided to such consumer who indicated such preferred language; and

(B) include a notice on the English and translated versions indicating that the English version is the official and operative document and the translated version is for informational purposes only.

(3) ORAL INTERPRETATION SERVICES.—

(A) IN GENERAL.—If a creditor receives information about a language preference of a consumer through the standard language preference form, orally or in writing in connection with a residential mortgage loan, as determined by the Director of the Bureau, including from another creditor or a servicer, such creditor shall provide oral interpretation services to such consumer.

(B) ORAL INTERPRETATION SERVICES.—If a creditor is required under subparagraph (A) to provide oral interpretation services to a consumer, such creditor shall ensure qualified oral interpretation services, as defined by the Director of the Bureau, are made available in the preferred language of the consumer for all oral communications between the such creditor and the consumer and these oral interpretation services may be provided by qualified staff of the creditor or a qualified third party.

(4) NOTICE OF AVAILABLE LANGUAGE SERVICES.—If a creditor receives information about a language preference of a consumer through the standard language preference form, orally or in writing in connection with a residential mortgage loan, as determined by the Director of the Bureau, including from another creditor or a servicer, such creditor shall not later than 10 business days after receiving such information, notify such consumer in writing, in the preferred language of the consumer, of

any language services available, including the services required under paragraphs (2) and (3).

(5) *TRANSFER OF LANGUAGE PREFERENCE INFORMATION.*—If a creditor transfers the servicing associated with a residential mortgage loan, such creditor shall notify the transferee servicer of any known language preference of the consumer associated with such residential mortgage loan.

(6) *INFORMATION ON WEBSITE.*—Each creditor shall on the website of the creditor publish—

(A) links to and explanatory information about the websites maintained by the Secretary of Housing and Urban Development and the Director of the Bureau of Consumer Financial Protection that identify housing counselors approved by the Department of Housing and Urban Development; and

(B) a link to and explanatory information about the language resources website established by the Director of the Bureau of Consumer Financial Protection, the Secretary of Housing and Urban Development, the Director of the Federal Housing Finance Agency, the Secretary of Agriculture, and the Secretary of Veterans Affairs under section 1(e) of the Improving Language Access in Mortgage Servicing Act of 2021.

(c) *TRANSLATION OF MORTGAGE DOCUMENTS.*—With respect to each document published by the Federal Housing Finance Agency, the Bureau of Consumer Financial Protection, the Department of Housing and Urban Development, the Department of Veterans Affairs, and the Department of Agriculture and used in association with a residential mortgage loan transaction, including origination and servicing documents, the Director of the Bureau of Consumer Financial Protection and the Director of the Federal Housing Finance Agency shall jointly—

(1) not later than 180 days after the date of the enactment of this section, publish versions of such documents translated into each of the 8 languages most commonly spoken by individuals with limited English proficiency, as determined by the Director of the Bureau of Consumer Financial Protection using information published by the Director of the Bureau of the Census; and

(2) not later than 3 years after the date of the enactment of this section, publish versions of such documents translated into at least 4 additional languages spoken by individuals with limited English proficiency that are regionally prevalent in the United States, as determined by the Director of the Bureau of Consumer Financial Protection using information published by the Director of the Bureau of the Census.

(d) *RULEMAKING.*—The Director may issue such rules as the Director determines necessary to implement this section.

* * * * *

REAL ESTATE SETTLEMENT PROCEDURES ACT OF 1974

* * * * *

SERVICING OF MORTGAGE LOANS AND ADMINISTRATION OF ESCROW
ACCOUNTS

SEC. 6. (a) DISCLOSURE TO APPLICANT RELATING TO ASSIGNMENT, SALE, OR TRANSFER OF LOAN SERVICING.—Each person who makes a federally related mortgage loan shall disclose to each person who applies for the loan, at the time of application for the loan, whether the servicing of the loan may be assigned, sold, or transferred to any other person at any time while the loan is outstanding.

(b) NOTICE BY TRANSFEROR OR LOAN SERVICING AT TIME OF TRANSFER.—

(1) NOTICE REQUIREMENT.—Each servicer of any federally related mortgage loan shall notify the borrower in writing of any assignment, sale, or transfer of the servicing of the loan to any other person.

(2) TIME OF NOTICE.—

(A) IN GENERAL.—Except as provided under subparagraphs (B) and (C), the notice required under paragraph (1) shall be made to the borrower not less than 15 days before the effective date of transfer of the servicing of the mortgage loan (with respect to which such notice is made).

(B) EXCEPTION FOR CERTAIN PROCEEDINGS.—The notice required under paragraph (1) shall be made to the borrower not more than 30 days after the effective date of assignment, sale, or transfer of the servicing of the mortgage loan (with respect to which such notice is made) in any case in which the assignment, sale, or transfer of the servicing of the mortgage loan is preceded by—

(i) termination of the contract for servicing the loan for cause;

(ii) commencement of proceedings for bankruptcy of the servicer; or

(iii) commencement of proceedings by the Federal Deposit Insurance Corporation or the Resolution Trust Corporation for conservatorship or receivership of the servicer (or an entity by which the servicer is owned or controlled).

(C) EXCEPTION FOR NOTICE PROVIDED AT CLOSING.—The provisions of subparagraphs (A) and (B) shall not apply to any assignment, sale, or transfer of the servicing of any mortgage loan if the person who makes the loan provides to the borrower, at settlement (with respect to the property for which the mortgage loan is made), written notice under paragraph (3) of such transfer.

(3) CONTENTS OF NOTICE.—The notice required under paragraph (1) shall include the following information:

(A) The effective date of transfer of the servicing described in such paragraph.

(B) The name, address, and toll-free or collect call telephone number of the transferee servicer.

(C) A toll-free or collect call telephone number for (i) an individual employed by the transferor servicer, or (ii) the department of the transferor servicer, that can be contacted by the borrower to answer inquiries relating to the transfer of servicing.

(D) The name and toll-free or collect call telephone number for (i) an individual employed by the transferee servicer, or (ii) the department of the transferee servicer, that can be contacted by the borrower to answer inquiries relating to the transfer of servicing.

(E) The date on which the transferor servicer who is servicing the mortgage loan before the assignment, sale, or transfer will cease to accept payments relating to the loan and the date on which the transferee servicer will begin to accept such payments.

(F) Any information concerning the effect the transfer may have, if any, on the terms of or the continued availability of mortgage life or disability insurance or any other type of optional insurance and what action, if any, the borrower must take to maintain coverage.

(G) A statement that the assignment, sale, or transfer of the servicing of the mortgage loan does not affect any term or condition of the security instruments other than terms directly related to the servicing of such loan.

(c) NOTICE BY TRANSFEREE OF LOAN SERVICING AT TIME OF TRANSFER.—

(1) NOTICE REQUIREMENT.—Each transferee servicer to whom the servicing of any federally related mortgage loan is assigned, sold, or transferred shall notify the borrower of any such assignment, sale, or transfer.

(2) TIME OF NOTICE.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the notice required under paragraph (1) shall be made to the borrower not more than 15 days after the effective date of transfer of the servicing of the mortgage loan (with respect to which such notice is made).

(B) EXCEPTION FOR CERTAIN PROCEEDINGS.—The notice required under paragraph (1) shall be made to the borrower not more than 30 days after the effective date of assignment, sale, or transfer of the servicing of the mortgage loan (with respect to which such notice is made) in any case in which the assignment, sale, or transfer of the servicing of the mortgage loan is preceded by—

(i) termination of the contract for servicing the loan for cause;

(ii) commencement of proceedings for bankruptcy of the servicer; or

(iii) commencement of proceedings by the Federal Deposit Insurance Corporation or the Resolution Trust Corporation for conservatorship or receivership of the servicer (or an entity by which the servicer is owned or controlled).

(C) EXCEPTION FOR NOTICE PROVIDED AT CLOSING.—The provisions of subparagraphs (A) and (B) shall not apply to any assignment, sale, or transfer of the servicing of any mortgage loan if the person who makes the loan provides to the borrower, at settlement (with respect to the property for which the mortgage loan is made), written notice under paragraph (3) of such transfer.

(3) CONTENTS OF NOTICE.—Any notice required under paragraph (1) shall include the information described in subsection (b)(3).

(d) TREATMENT OF LOAN PAYMENTS DURING TRANSFER PERIOD.—During the 60-day period beginning on the effective date of transfer of the servicing of any federally related mortgage loan, a late fee may not be imposed on the borrower with respect to any payment on such loan and no such payment may be treated as late for any other purposes, if the payment is received by the transferor servicer (rather than the transferee servicer who should properly receive payment) before the due date applicable to such payment.

(e) DUTY OF LOAN SERVICER TO RESPOND TO BORROWER INQUIRIES.—

(1) NOTICE OF RECEIPT OF INQUIRY.—

(A) IN GENERAL.—If any servicer of a federally related mortgage loan receives a qualified written request from the borrower (or an agent of the borrower) for information relating to the servicing of such loan, the servicer shall provide a written response acknowledging receipt of the correspondence within 5 days (excluding legal public holidays, Saturdays, and Sundays) unless the action requested is taken within such period.

(B) QUALIFIED WRITTEN REQUEST.—For purposes of this subsection, a qualified written request shall be a written correspondence, other than notice on a payment coupon or other payment medium supplied by the servicer, that—

(i) includes, or otherwise enables the servicer to identify, the name and account of the borrower; and

(ii) includes a statement of the reasons for the belief of the borrower, to the extent applicable, that the account is in error or provides sufficient detail to the servicer regarding other information sought by the borrower.

(2) ACTION WITH RESPECT TO INQUIRY.—Not later than 30 days (excluding legal public holidays, Saturdays, and Sundays) after the receipt from any borrower of any qualified written request under paragraph (1) and, if applicable, before taking any action with respect to the inquiry of the borrower, the servicer shall—

(A) make appropriate corrections in the account of the borrower, including the crediting of any late charges or penalties, and transmit to the borrower a written notification of such correction (which shall include the name and telephone number of a representative of the servicer who can provide assistance to the borrower);

(B) after conducting an investigation, provide the borrower with a written explanation or clarification that includes—

(i) to the extent applicable, a statement of the reasons for which the servicer believes the account of the borrower is correct as determined by the servicer; and

(ii) the name and telephone number of an individual employed by, or the office or department of, the servicer who can provide assistance to the borrower; or

(C) after conducting an investigation, provide the borrower with a written explanation or clarification that includes—

(i) information requested by the borrower or an explanation of why the information requested is unavailable or cannot be obtained by the servicer; and

(ii) the name and telephone number of an individual employed by, or the office or department of, the servicer who can provide assistance to the borrower.

(3) PROTECTION OF CREDIT RATING.—During the 60-day period beginning on the date of the servicer's receipt from any borrower of a qualified written request relating to a dispute regarding the borrower's payments, a servicer may not provide information regarding any overdue payment, owed by such borrower and relating to such period or qualified written request, to any consumer reporting agency (as such term is defined under section 603 of the Fair Credit Reporting Act).

(4) LIMITED EXTENSION OF RESPONSE TIME.—The 30-day period described in paragraph (2) may be extended for not more than 15 days if, before the end of such 30-day period, the servicer notifies the borrower of the extension and the reasons for the delay in responding.

(f) DAMAGES AND COSTS.—Whoever fails to comply with any provision of this section shall be liable to the borrower for each such failure in the following amounts:

(1) INDIVIDUALS.—In the case of any action by an individual, an amount equal to the sum of—

(A) any actual damages to the borrower as a result of the failure; and

(B) any additional damages, as the court may allow, in the case of a pattern or practice of noncompliance with the requirements of this section, in an amount not to exceed \$2,000.

(2) CLASS ACTIONS.—In the case of a class action, an amount equal to the sum of—

(A) any actual damages to each of the borrowers in the class as a result of the failure; and

(B) any additional damages, as the court may allow, in the case of a pattern or practice of noncompliance with the requirements of this section, in an amount not greater than \$2,000 for each member of the class, except that the total amount of damages under this subparagraph in any class action may not exceed the lesser of—

(i) \$1,000,000; or

(ii) 1 percent of the net worth of the servicer.

(3) COSTS.—In addition to the amounts under paragraph (1) or (2), in the case of any successful action under this section, the costs of the action, together with any attorneys fees incurred in connection with such action as the court may determine to be reasonable under the circumstances.

(4) NONLIABILITY.—A transferor or transferee servicer shall not be liable under this subsection for any failure to comply with any requirement under this section if, within 60 days after discovering an error (whether pursuant to a final written examination report or the servicer's own procedures) and be-

fore the commencement of an action under this subsection and the receipt of written notice of the error from the borrower, the servicer notifies the person concerned of the error and makes whatever adjustments are necessary in the appropriate account to ensure that the person will not be required to pay an amount in excess of any amount that the person otherwise would have paid.

(g) **ADMINISTRATION OF ESCROW ACCOUNTS.**—If the terms of any federally related mortgage loan require the borrower to make payments to the servicer of the loan for deposit into an escrow account for the purpose of assuring payment of taxes, insurance premiums, and other charges with respect to the property, the servicer shall make payments from the escrow account for such taxes, insurance premiums, and other charges in a timely manner as such payments become due. Any balance in any such account that is within the servicer's control at the time the loan is paid off shall be promptly returned to the borrower within 20 business days or credited to a similar account for a new mortgage loan to the borrower with the same lender.

(h) **PREEMPTION OF CONFLICTING STATE LAWS.**—Notwithstanding any provision of any law or regulation of any State, a person who makes a federally related mortgage loan or a servicer shall be considered to have complied with the provisions of any such State law or regulation requiring notice to a borrower at the time of application for a loan or transfer of the servicing of a loan if such person or servicer complies with the requirements under this section regarding timing, content, and procedures for notification of the borrower.

(i) **DEFINITIONS.**—For purposes of this section:

(1) **EFFECTIVE DATE OF TRANSFER.**—The term “effective date of transfer” means the date on which the mortgage payment of a borrower is first due to the transferee servicer of a mortgage loan pursuant to the assignment, sale, or transfer of the servicing of the mortgage loan.

(2) **SERVICER.**—The term “servicer” means the person responsible for servicing of a loan (including the person who makes or holds a loan if such person also services the loan). The term does not include—

(A) the Federal Deposit Insurance Corporation or the Resolution Trust Corporation, in connection with assets acquired, assigned, sold, or transferred pursuant to section 13(c) of the Federal Deposit Insurance Act or as receiver or conservator of an insured depository institution; and

(B) the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Resolution Trust Corporation, or the Federal Deposit Insurance Corporation, in any case in which the assignment, sale, or transfer of the servicing of the mortgage loan is preceded by—

(i) termination of the contract for servicing the loan for cause;

(ii) commencement of proceedings for bankruptcy of the servicer; or

(iii) commencement of proceedings by the Federal Deposit Insurance Corporation or the Resolution Trust

Corporation for conservatorship or receivership of the servicer (or an entity by which the servicer is owned or controlled).

(3) **SERVICING.**—The term “servicing” means receiving any scheduled periodic payments from a borrower pursuant to the terms of any loan, including amounts for escrow accounts described in section 10, and making the payments of principal and interest and such other payments with respect to the amounts received from the borrower as may be required pursuant to the terms of the loan.

(j) **TRANSITION.**—

(1) **ORIGINATOR LIABILITY.**—A person who makes a federally related mortgage loan shall not be liable to a borrower because of a failure of such person to comply with subsection (a) with respect to an application for a loan made by the borrower before the regulations referred to in paragraph (3) take effect.

(2) **SERVICER LIABILITY.**—A servicer of a federally related mortgage loan shall not be liable to a borrower because of a failure of the servicer to perform any duty under subsection (b), (c), (d), or (e) that arises before the regulations referred to in paragraph (3) take effect.

(3) **REGULATIONS AND EFFECTIVE DATE.**—The Bureau shall establish any requirements necessary to carry out this section. Such regulations shall include the model disclosure statement required under subsection (a)(2).

(k) **SERVICER PROHIBITIONS.**—

(1) **IN GENERAL.**—A servicer of a federally related mortgage shall not—

(A) obtain force-placed hazard insurance unless there is a reasonable basis to believe the borrower has failed to comply with the loan contract’s requirements to maintain property insurance;

(B) charge fees for responding to valid qualified written requests (as defined in regulations which the Bureau of Consumer Financial Protection shall prescribe) under this section;

(C) fail to take timely action to respond to a borrower’s requests to correct errors relating to allocation of payments, final balances for purposes of paying off the loan, or avoiding foreclosure, or other standard servicer’s duties;

(D) fail to respond within 10 business days to a request from a borrower to provide the identity, address, and other relevant contact information about the owner or assignee of the loan; or

(E) fail to comply with any other obligation found by the Bureau of Consumer Financial Protection, by regulation, to be appropriate to carry out the consumer protection purposes of this Act.

(2) **FORCE-PLACED INSURANCE DEFINED.**—For purposes of this subsection and subsections (l) and (m), the term “force-placed insurance” means hazard insurance coverage obtained by a servicer of a federally related mortgage when the borrower has failed to maintain or renew hazard insurance on such property as required of the borrower under the terms of the mortgage.

(l) REQUIREMENTS FOR FORCE-PLACED INSURANCE.—A servicer of a federally related mortgage shall not be construed as having a reasonable basis for obtaining force-placed insurance unless the requirements of this subsection have been met.

(1) WRITTEN NOTICES TO BORROWER.—A servicer may not impose any charge on any borrower for force-placed insurance with respect to any property securing a federally related mortgage unless—

(A) the servicer has sent, by first-class mail, a written notice to the borrower containing—

(i) a reminder of the borrower's obligation to maintain hazard insurance on the property securing the federally related mortgage;

(ii) a statement that the servicer does not have evidence of insurance coverage of such property;

(iii) a clear and conspicuous statement of the procedures by which the borrower may demonstrate that the borrower already has insurance coverage; and

(iv) a statement that the servicer may obtain such coverage at the borrower's expense if the borrower does not provide such demonstration of the borrower's existing coverage in a timely manner;

(B) the servicer has sent, by first-class mail, a second written notice, at least 30 days after the mailing of the notice under subparagraph (A) that contains all the information described in each clause of such subparagraph; and

(C) the servicer has not received from the borrower any demonstration of hazard insurance coverage for the property securing the mortgage by the end of the 15-day period beginning on the date the notice under subparagraph (B) was sent by the servicer.

(2) SUFFICIENCY OF DEMONSTRATION.—A servicer of a federally related mortgage shall accept any reasonable form of written confirmation from a borrower of existing insurance coverage, which shall include the existing insurance policy number along with the identity of, and contact information for, the insurance company or agent, or as otherwise required by the Bureau of Consumer Financial Protection.

(3) TERMINATION OF FORCE-PLACED INSURANCE.—Within 15 days of the receipt by a servicer of confirmation of a borrower's existing insurance coverage, the servicer shall—

(A) terminate the force-placed insurance; and

(B) refund to the consumer all force-placed insurance premiums paid by the borrower during any period during which the borrower's insurance coverage and the force-placed insurance coverage were each in effect, and any related fees charged to the consumer's account with respect to the force-placed insurance during such period.

(4) CLARIFICATION WITH RESPECT TO FLOOD DISASTER PROTECTION ACT.—No provision of this section shall be construed as prohibiting a servicer from providing simultaneous or concurrent notice of a lack of flood insurance pursuant to section 102(e) of the Flood Disaster Protection Act of 1973.

(m) LIMITATIONS ON FORCE-PLACED INSURANCE CHARGES.—All charges, apart from charges subject to State regulation as the busi-

ness of insurance, related to force-placed insurance imposed on the borrower by or through the servicer shall be bona fide and reasonable.

(n) *LANGUAGE ACCESS REQUIREMENTS.*—

(1) *IN GENERAL.*—

(A) *INCLUSION IN NOTICES.*—*Each servicer shall include the standard language preference form with—*

- (i) *any notice required under section 1024.39(b) of title 12, Code of Federal Regulations;*
- (ii) *any notice required under section (c);*
- (iii) *any notice required under section 1024.41(b)(2) of title 12, Code of Federal Regulations;*
- (iv) *any notice required under section 1024.41(c)(2)(iii) of title 12, Code of Federal Regulations; and*
- (v) *any other additional notice as the Director of the Bureau of Consumer Financial Protection determines necessary.*

(B) *INCLUSION OF DISCLOSURES.*—*A servicer may include with the standard language preference form a disclosure stating that documents and services may not be available in the preferred language of the borrower indicated by the consumer on the standard language preference form.*

(C) *DOCUMENTATION AND TRANSFER OF PREFERRED LANGUAGE INFORMATION.*—*If a servicer or an assignee of a servicer receives information about a language preference of a borrower through the standard language preference form, orally or in writing in connection with a federally related mortgage, as determined by the Director of the Bureau, including from another servicer or creditor, such servicer or assignee shall document this language preference in each file or electronic file of information associated with such borrower and shall transfer such information and the standard language preference form to any other servicer that may service the loan in the future.*

(2) *REQUIRED LANGUAGE SERVICES FOR SERVICERS.*—

(A) *PROVISION OF TRANSLATED DOCUMENTS.*—*If a Federal agency, or a State or local agency in the State or locality in which the property subject to the federally related mortgage loan is to be located has produced a translation of a document used in association with a federally related mortgage loan in the preferred language of a borrower as documented by the servicer pursuant to paragraph (1)(C), the servicer shall—*

- (i) *provide such translation in addition to any English version of such document that would have been provided to such borrower; and*
- (ii) *include a notice on the English and translated versions, in the preferred language of the borrower, indicating that the English version is the official and operative document and the translated version is for informational purposes only.*

(B) *ORAL INTERPRETATION SERVICES.*—

- (i) *IN GENERAL.*—*If a servicer receives information about a language preference of a borrower through the*

standard language preference form, orally or in writing in connection with a federally related mortgage, as determined by the Director of the Bureau, including from another creditor or a servicer, such servicer shall provide oral interpretation services to such borrower.

(ii) ORAL INTERPRETATION SERVICES.—If a servicer is required under subparagraph (A) to provide oral interpretation services to a borrower, such servicer shall ensure qualified oral interpretation services, as defined by the Director of the Bureau, are made available in the preferred language of the borrower for all oral communications between the such servicer and the borrower and these oral interpretation services may be provided by qualified staff of the borrower or a qualified third party.

(3) NOTICE OF AVAILABLE LANGUAGE SERVICES.—If a servicer receives information about a language preference of a borrower through the standard language preference form, orally or in writing in connection with a federally related mortgage, as determined by the Director of the Bureau, including from another creditor or a servicer, such servicer shall, not later than 10 business days after receiving such information, notify such borrower in writing, in the preferred language of the borrower, of any language services available, including the services required under paragraph (2).

(4) TRANSFER OF LANGUAGE PREFERENCE INFORMATION.—If a servicer transfers the servicing associated with a federally related mortgage loan, such servicer shall notify the transferee servicer of any known language preference of the borrower associated with such federally related mortgage loan.

(5) STANDARD LANGUAGE PREFERENCE FORM DEFINED.—The term “standard language preference form” means the standard language preference form established by the Director of the Bureau under section 129I of the Truth in Lending Act.

(6) INFORMATION ON WEBSITE.—Each servicer shall on the website of the servicer publish—

(A) links to and information about the websites maintained by the Secretary of Housing and Urban Development and the Director of the Bureau of Consumer Financial Protection that identify housing counselors approved by the Department of Housing and Urban Development; and

(B) a link to and information about the language resources website established by the Director of the Bureau of Consumer Financial Protection, the Secretary of Housing and Urban Development, the Director of the Federal Housing Finance Agency, the Secretary of Agriculture, and the Secretary of Veterans Affairs under section 1(e) of the Improving Language Access in Mortgage Servicing Act of 2021.

(7) *RULEMAKING.—The Director of the Bureau of Consumer Financial Protection may issue such rules as the Director determines necessary to implement this section.*

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